KAREN P. HEWITT
United States Attorney
STEVE B. CHU
Assistant U.S. Attorney
California Bar No. 221177
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-5682

Attorneys for Defendant
United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ALTON B. HORNBACK, Plaintiff, v. UNITED STATES OF AMERICA, Defendants.	Civil Case No. 08 CV 0127-WQH-BLM DECLARATION OF STEVE B. CHU IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS Date: June 9 , 2008 Time: 11:00 a.m. Crtrm: 4 Judge: Hon. William T. Hayes [No Oral Argument Unless Requested by the Court]

I, Steve B. Chu, declare as follows:

I am an Assistant U.S. Attorney in the Southern District of California. I have been assigned primary responsibility for the defense of this suit. I have personal knowledge of the facts set forth herein, unless specifically stated based on information and belief.

1. On Friday, May 2, 2008, I contacted Plaintiff Alton Hornback via telephone. I confirmed with Mr. Hornback that he had received the written decision from the United States Patent and Trademark Office (hereafter "USPTO") dated April 3, 2008. I asked Mr. Hornback

if he wished to pursue the current mandamus lawsuit in light of the USPTO's written decision informing him that he would need to file a formal application for reissue. Mr. Hornback informed me that he wished to proceed with his mandamus suit notwithstanding the USPTO's written decision.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 5th day of May 2008.

/s Steve B. Chu

STEVE B. CHU